



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2018–N055; FXES11130800000–189–FF08EVEN00]

Low-Effect Habitat Conservation Plan and Categorical Exclusion; Gaver Ranch,

Castroville, Monterey County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Midnight Sun, Inc., for a 20-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of the federally threatened California red-legged frog and California tiger salamander that is likely to occur incidental to ongoing agricultural activities, flood and erosion control activities, and habitat restoration at Gaver Ranch near the community of Castroville in unincorporated Monterey County, California. We invite comments from the public on the application package, which includes a low-effect habitat conservation plan.

DATES: To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: *Document availability:* You may download a copy of the habitat conservation plan, draft environmental action statement and low-effect screening form, and related documents on the Internet at <http://www.fws.gov/ventura/>, or you may

request copies of the documents by U.S. mail to our Ventura office (see address below) or by phone (see **FOR FURTHER INFORMATION CONTACT**).

Comment submission: Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You alternatively may send comments by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Chad Mitcham, Fish and Wildlife Biologist, (805) 677–3328.

SUPPLEMENTARY INFORMATION: We have received an application from Midnight Sun, Inc., for a 20-year incidental take permit under the Act. The application addresses the potential for “take” of the federally threatened California red-legged frog (*Rana draytonii*) and California tiger salamander (*Ambystoma californiense*) likely to occur incidental to ongoing agricultural activities, flood and erosion control activities, and habitat restoration at Gaver Ranch, 15740 Blackie Road (Assessor Parcel Numbers (APNs): 133–012–001 and 133–012–007), near Castroville in unincorporated Monterey County, California. We invite comments from the public on the application package, which includes a low-effect habitat conservation plan. This proposed action has been determined to be eligible for a categorical exclusion under the National Environmental Policy Act of 1969 (NEPA), as amended.

Background

The U.S. Fish and Wildlife Service (Service) added the California red-legged frog to the List of Endangered and Threatened Wildlife (“listed”) as threatened on May 23,

1996 (61 FR 25813), and the Service listed the California tiger salamander in central California as threatened on August 4, 2004 (69 FR 47212). This list is found in title 50 of the Code of Federal Regulations at 50 CFR 17.11. Section 9 of the Act (16 U.S.C. 1531 et seq.) and its implementing regulations prohibit the take of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. The Act defines “incidental take” as take that is not the purpose of carrying out an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are provided at 50 CFR 17.32 and 17.22, respectively. Issuance of an incidental take permit and actions undertaken through implementation of the habitat conservation plan (HCP) must not jeopardize the existence of federally listed fish, wildlife, or plant species. All species covered by an incidental take permit receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)). In addition, the Service has issued regulations for these species under section 4(d) of the Act. These regulations state that incidental take as the result of routine ranching activities will not be a violation of the take provisions of section 9 of the Act. The section 4(d) regulations for the California tiger salamander are located at 50 CFR 17.43(c) and for the California red-legged frog at 50 CFR 17.43(d).

Applicant’s Proposal

Midnight Sun Inc. (hereafter, the applicant), has submitted a low-effect HCP in support of their application for an incidental take permit (ITP) to address take of the California red-legged frog and California tiger salamander that is likely to occur as the result of direct impacts on up to 9.5 acres of suitable habitat occupied by the species. Take would be associated with ongoing agricultural activities, flood and erosion control activities, and habitat restoration on two existing parcels legally described as APNs: 133–012–001 and 133–012–007. Ultimately, the project intends to improve drainage infrastructure to avoid on- and offsite flooding that has been occurring since 2011. The current site address is 15740 Blackie Road near Castroville in unincorporated Monterey County, California. This property is outside the critical habitat designations for these species as set forth in 50 CFR 17.95(d).

The applicant is requesting a permit for take of the California red-legged frog and California tiger salamander that would result from “covered activities” that are related to ongoing agricultural operations. A 20-year ITP is requested to authorize take that would occur incidental to the proposed project. The applicant proposes to avoid, minimize, and mitigate impacts to the California red-legged frog and California tiger salamander associated with the covered activities by fully implementing the HCP. The following measures will be implemented:

(1) A qualified biologist will conduct an education program for all persons employed or otherwise working in the project area. The program will cover species identification and ecology, legal protections afforded the species, and species-specific conservation measures. The education program will be attended by all onsite construction

personnel, and those personnel will be directed to cease work and immediately contact a biologist permitted to capture and relocate the subject species if any are observed in an area to be impacted.

(2) Each day prior to work beginning, a designated biologist or biological monitor will inspect the work area for the covered species. If an individual of the covered species is found in an area to be impacted, all work in that area will cease and a Service-approved biologist immediately notified. Work will cease until the individual moves from the area on its own accord or until the Service-approved biologist captures and relocates the individual to the nearest suitable habitat not affected by project activities.

(3) To the maximum extent practicable, construction activities will be limited to daylight hours.

(4) The applicant will not use erosion control materials that contain monofilament netting or similar material that can result in the entanglement of the covered species and other wildlife.

(5) Soil stockpiles will be fully stabilized to prevent erodible materials entering the covered species' aquatic habitats.

(6) Onsite restoration and management of 8.9 acres of upland and dispersal habitat will occur in order for the covered species to continue to utilize the project site.

(7) Permanent protection of 1.5 acres of habitat for the California red-legged frog and California tiger salamander will be ensured through the purchase of multispecies credits at the Sparling Ranch Conservation Bank in San Benito County, California. The

applicant will fund up to \$1,556,976 to ensure implementation of all minimization measures, monitoring, and reporting requirements identified in the HCP.

In the proposed HCP, the applicant considers two alternatives to the proposed action: “No Action” and “Redesigned Project.” Under the “No Action” alternative, an ITP for the proposed project would not be issued. The proposed conservation strategy consisting of onsite management of 8.9 acres of upland and dispersal habitat and the purchase of conservation credits would not be provided to effect recovery actions for the impacted species. The “No Action” alternative would not result in needed improvements to reduce the risk of on- and offsite flooding and would not result in benefits for the covered species; therefore, the applicant has rejected the “No Action” alternative. Under the “Redesigned Project” alternative, the applicant would further reduce the area of the proposed project to the smallest possible footprint; however, the Redesigned Project would not realistically accomplish the project goal of the reduction of on- and offsite flooding risk. Under this alternative, the applicant would not achieve the desired goal of reduced flooding risk, and fewer conservation credits would be purchased to effect recovery; therefore, the applicant has also rejected the “Redesigned Project” alternative.

Our Preliminary Determination

The Service has made a preliminary determination that issuance of the incidental take permit is neither a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of NEPA (42 U.S.C. 4321 et seq.) nor that it will, individually or cumulatively, have more than a negligible

effect on the California red-legged frog and California tiger salamander. Therefore, in accordance with this preliminary determination, the permit qualifies for a categorical exclusion under NEPA.

Next Steps

We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service section 7 consultation.

Public Review

We provide this notice under section 10(c) of the Act and the National Environmental Policy Act of 1969, as amended, and NEPA's public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We are requesting comments on our determination that the applicant's proposal will have a minor or negligible effect on the California red-legged frog and California tiger salamander, and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook. We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our internal Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the permit. If the requirements are met, we will issue an ITP to the applicant for the incidental take of California red-legged frog and California tiger salamander. We will make the final permit decision no sooner than 30 days after the date of this notice.

Public Comments

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by one of the methods described in

ADDRESSES.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 et seq.) and NEPA regulations (40 CFR 1506.6).

Dated: August 10 2018.

Stephen P. Henry,
Field Supervisor,
Ventura Fish and Wildlife Office,
Ventura, California.

[FR Doc. 2018-17669 Filed: 8/15/2018 8:45 am; Publication Date: 8/16/2018]